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09/740,960	12/21/2000	Mika Leppinen	05288.00002	6297

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EXAMINER

MILLER, BRANDON J

ART UNIT PAPER NUMBER

2683

DATE MAILED: 06/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/740,960

Applicant(s)

LEPPINEN ET AL.

Examiner

Brandon J Miller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 19 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Amendment*

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-5 and 18-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kanevsky in view of Linden

Regarding claim 2 Kanevsky teaches a method for backing-up data in a wireless network (see col. 1, lines 40-42 & 55-58). Kanevsky teaches selecting data within a wireless device for backup in a storage area (see col. 1, lines 55-57 and col. 2, lines 25-27, 49-50, & 52-55). Kanevsky teaches a storage area being accessible by a wireless client device through the wireless network (see col. 2, lines 18-27, 39-40, 43-45, & 66-67). Kanevsky teaches encrypting selected data (see col. 3, lines 64-67). Kanevsky teaches sending the encrypted data to the storage area (see coll. 4, lines 1-4). Kanevsky does not specifically teach the step of sending the encrypted data to the storage area is done using a Wireless Application Protocol (WAP) technique. Linden teaches using a WAP application protocol for data transmission (see col. 7, lines 63-65). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include sending the encrypted data to the storage area is done using a Wireless Application Protocol (WAP) technique because this would allow for more efficient transmission of data in a wireless communications system.

Regarding claim 3 Kanevsky and Linden teach a device as recited in claim 2 except for encapsulating the encrypted data within a SyncML document. Kanevsky does teach encrypting data (see col. 3, lines 64-67). Linden does teach encapsulating coded data within a wireless mark-up language (see col. 2, lines 4-6 and col. 8, lines 14-16). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include encapsulating the encrypted data within a SyncML document because this would allow for improved security in data transmission between servers and communication devices connected to a wireless network.

Regarding claim 4 Kanevsky and Linden teach a device as recited in claim 2 except for encapsulating the encrypted data within a XML document. Kanevsky does teach encrypting data (see col. 3, lines 64-67). Linden does teach encapsulating coded data within a wireless mark-up language (see col. 2, lines 4-6 and col. 8, lines 14-16). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include encapsulating the encrypted data within a XML document because this would allow for improved security in data transmission between servers and communication devices connected to a wireless network.

Regarding claim 5 Kanevsky teaches wireless device that is one of a personal digital assistant (see col. 1, lines 56-57). Linden teaches a wireless device that is one of a wireless telephone handset (see col. 6, lines 1-3 and Fig. 1).

Regarding claim 18 Kanevsky teaches a wireless terminal device including a memory storing data (see col. 1, lines 41-42 & 51-58). Kanevsky teaches allowing a user to select data for backup storage (see col. 2, lines 49-55). Kanevsky teaches a backup module encrypting

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selected data (see col. 3, lines 64-67). Kanevsky teaches sending the encrypted data to the storage area (see coll. 4, lines 1-4). Kanevsky teaches a storage area being accessible by a wireless client device through the wireless network (see col. 2, lines 18-27, 39-40, 43-45, & 66-67). Kanevsky does not specifically teach a browser. Linden teaches a browser that is used in a wireless communication device to control a user interface (see col. 2, lines 9-11). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include a browser because this would allow for improved control of data transmission in a wireless communication system.

Regarding claim 19 Linden teaches a browser that is a Wireless Application Protocol (WAP) browser (see col. 2, lines 1-8).

Regarding claim 20 Kanevsky teaches sending the encrypted data to the storage area (see coll. 4, lines 1-4). Linden teaches using a WAP application protocol for data transmission (see col. 7, lines 63-65).

Regarding claim 21 Kanevsky and Linden teach a device as recited in claim 3 and is rejected given the same reasoning as above.

Regarding claim 22 Kanevsky and Linden teach a device as recited in claim 4 and is rejected given the same reasoning as above.

Regarding claim 23 Kanevsky and Linden teach a device as recited in claim 5 and is rejected given the same reasoning as above.

Claims 6-17 and 24-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kanevsky in view of Linden and Langford.

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Regarding claim 6 Kanevsky and Linden teach a device as recited in claim 2 except for encrypting selected data using a public key. Kanevsky does teach encrypting selected data (see col. 3, lines 64-67). Langford does teach encrypting selected data using a public key (see col. 2, lines 58-60). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include encrypting selected data using a public key because this would allow for allow for efficient storage of data in a wireless communications system.

Regarding claim 7 Kanevsky, Linden, and Langford teach a device as recited in claim 6 except for a public key that is supplied by a Wireless Identity Module (WIM). Langford does teach a public key that is supplied by a public key infrastructure (PKI) directory system (see col. 3, lines 1-3). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include a public key that is supplied by a Wireless Identity Module (WIM) because this would allow for allow for efficient storage of data in a wireless communications system.

Regarding claim 8 Kanevsky and Linden teach a device as recited in claim 2 except for downloading encrypted data form the storage area and decrypting the encrypted data. Linden does teach downloading data (see col. 5, lines 1-3). Langford teaches recovering encrypted data from backup and decrypting the encrypted data (see col. 6, lines 14-20 & 24-27). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include downloading encrypted data form the storage area and decrypting the encrypted data because this would allow for allow for improved security in data transmission between servers and communication devices connected to a wireless network.

Regarding claim 9 Kanevsky, Linden, and Langford teach a device as recited in claim 8 except for downloading the encrypted data using a WAP technique. Linden does teach using a WAP application protocol for data transmission (see col. 7, lines 63-65). Langford does teach recovering encrypted data from backup and decrypting the encrypted data (see col. 6, lines 14-20 & 24-27). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include downloading the encrypted data using a WAP technique because this would allow for improved security in data transmission between servers and communication devices connected to a wireless network.

Regarding claim 10 Langford teaches decrypting the encrypted data decrypts the encrypted data using a private key (see col. 6, lines 14-18).

Regarding claim 11 Kanevsky teaches a method of accessing backed-up data in a wireless network from a wireless device (see col. 1, lines 40-42 & 55-58). Kanevsky teaches backed up data having previously being selected for backup (see col. 2, lines 49-55). Kanevsky teaches the backed up data containing encrypted data (see col. 3, lines 65-67 and col. 4, lines 3-4). Kanevsky teaches a storage area being accessible by a wireless client device through the wireless network (see col. 2, lines 18-27, 39-40, 43-45, & 66-67). Kanevsky does not specifically teach downloading the backed-up data from a storage area or decrypting the downloaded backed-up data. Linden teaches downloading data (see col. 5, lines 1-3). Langford teaches recovering the backed-up data from a storage area, the backed up data having been previously selected for backup and decrypting the recovered backed-up data (see col. 6, lines 15-24). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include downloading the backed-up data from a storage area or

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decrypting the downloaded backed-up data because this would allow efficient access of previously stored data.

Regarding claim 12 Kanevsky, Linden, and Langford teach a device as recited in claim 9 and is rejected given the same reasoning as above.

Regarding claim 13 Kanevsky, Linden, and Langford teach a device as recited in claim 10 and is rejected given the same reasoning as above.

Regarding claim 14 Kanevsky, Linden, and Langford teach a device as recited in claim 7 and is rejected given the same reasoning as above.

Regarding claim 15 Kanevsky, Linden, and Langford teach a device as recited in claim 3 and is rejected given the same reasoning as above.

Regarding claim 16 Kanevsky, Linden, and Langford teach a device as recited in claim 4 and is rejected given the same reasoning as above.

Regarding claim 17 Kanevsky and Linden teach a device as recited in claim 5 and is rejected given the same reasoning as above.

Regarding claim 24 Kanevsky, Linden, and Langford teach a device as recited in claim 6 and is rejected given the same reasoning as above.

Regarding claim 25 Kanevsky, Linden, and Langford teach a device as recited in claim 7 and is rejected given the same reasoning as above.

Regarding claim 26 Kanevsky and Linden teach a device as recited in claim 18 except for downloading encrypted data from the storage area, the wireless terminal device further comprising a restore module that decrypts the encrypted data. Linden does teach downloading data (see col. 5, lines 1-3). Langford teaches restoring encrypted data from backup and



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decrypting the encrypted data (see col. 6, lines 14-20 & 24-27). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the device adapt to include downloading encrypted data from the storage area, the wireless terminal device further comprising a restore module that decrypts the encrypted data because this would allow for improved security in data transmission between servers and communication devices connected to a wireless network.

Regarding claim 27 Kanevsky, Linden, and Langford teach a device as recited in claim 9 and is rejected given the same reasoning as above.

Regarding claim 28 Kanevsky, Linden, and Langford teach a device as recited in claim 10 and is rejected given the same reasoning as above.

Regarding claim 29 Kanevsky, Linden, and Langford teach a device as recited in claim 7 and is rejected given the same reasoning as above.

### ***Response to Arguments***

Applicant's arguments with respect to claims 2-29 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

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In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the combination of Kanevsky and Linden are combinable in that they both relate to data transmission between remote communication devices and a server.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Suzuki U.S Patent No. 6,539,461 discloses a data saving method and external storage device.

Dunham et al. U.S Patent No. 6,714,952 discloses a method for backup and restore of a multi-lingual network file server.

Miloslavsky U.S Patent No. 6,418,146 discloses integrated communication center functionality for WAP devices.

Macky et al. U.S Patent No. 6,141,611 discloses a mobile vehicle accident data system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brandon J Miller whose telephone number is 703-305-4222. The examiner can normally be reached on Mon.-Fri. 8:00 am to 5:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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June 3, 2004



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